

**DRAFT Comment Summary and Responses**  
**Reconsideration of the Malibu Creek Watershed Trash TMDL**  
**Comment Due Date: 3/4/2019**

<b>Date Received</b>	<b>Author</b>
3/4/19	1. Heal the Bay and the Los Angeles Waterkeeper
3/4/19	2. The County of Ventura, Ventura County Watershed Protection District, and City of Thousand Oaks

<b>No.</b>	<b>Author</b>	<b>Comment</b>	<b>Response</b>
1.1	Heal the Bay and the Los Angeles Waterkeeper	<p>Heal the Bay is a nonprofit organization with over 15,000 members dedicated to making the coastal waters and watersheds of Greater Los Angeles safe, healthy and clean. We have reviewed the following documents in regards to the proposed amendments to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to revise the Total Maximum Daily Loads (TMDLs) for trash in Revolon Slough/Beardsley Wash and the Malibu Creek Watershed:</p> <ul style="list-style-type: none"> <li>• Reconsideration of the Revolon Slough / Beardsley Wash Trash TMDL and the Malibu Creek Watershed Trash TMDL (Staff Report).</li> <li>• Resolution No. R18-006: Amendment to the Water Quality Control Plan for the Los Angeles Region to Revise the Total Maximum Daily Load for Trash in the Malibu Creek Watershed (Malibu Creek Watershed Proposed Amendment)</li> <li>• Resolution No. R18-005: Amendment to the Water Quality Control Plan for the Los Angeles Region to Revise</li> </ul>	<p>Comment noted. Responses to this comment will be broken down in the matrix below, as each of these numbered conclusions were addressed in detail further along in the letter. Heal the Bay submitted a joint comment letter for the Malibu Creek Watershed Trash TMDL and the Revolon Slough/Beardsley Wash Trash TMDL. The comments specifically pertaining to the Malibu Creek Watershed Trash TMDL are addressed below and the comments pertaining to the Revolon Slough/Beardsley Wash Trash TMDL are addressed in a separate response to comments document for that TMDL. Note, most of the comments submitted by Heal the Bay and Los Angeles Waterkeeper were responded to previously by the Los Angeles Water Board. Heal the Bay and Los Angeles Waterkeeper have not explained why these responses are inadequate. The State Water Board is not required to consider</p>

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		<p>the Total Maximum Daily Load for Trash in Revolon Slough and Beardsley Wash (Revolon Slough / Beardsley Wash Proposed Amendment).</p> <ul style="list-style-type: none"> <li>• Comment Summary and Responses: Reconsideration of the Revolon Slough / Beardsley Wash Trash TMDL and the Malibu Creek Watershed Trash TMDL (Regional Board Response to Comments).</li> </ul> <p>On behalf of Heal the Bay, we respectfully submit the following comments in response to the Staff Report, Malibu Creek Watershed Proposed Amendment, the Revolon Slough / Beardsley Wash Proposed Amendment, and the Regional Board Response to Comments.</p> <p>In reviewing the above listed documents, we have come to the following conclusions:</p> <ol style="list-style-type: none"> <li>1.The minimum frequency of trash assessment and collection (MFAC) programs must be adaptively managed based on continuing TMRP and MFAC data to ensure that the “zero trash” objectives are maintained in the future.</li> <li>2.We oppose the proposed amendment that requires compliance with waste load allocations (WLAs) by addressing point sources of trash only in priority land use areas. Full capture systems or equivalent programs should be installed first in priority land use areas, but must also be installed in non-priority land use areas until 100% trash</li> </ol>	<p>these comments (Cal. Code Regs., tit. 23, § 3779, subd. (f).) Nonetheless, all comments are addressed in this Response to Comments in the interest of clarity.</p>

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		<p>reduction is achieved.</p> <p>3. There must be sufficient explanation or penalties for Responsible Jurisdictions that are not in compliance with TMDLs for both point and non-point sources of trash. These conclusions are discussed in further detail below, looking first at the Statewide Trash Amendment and its implications, then at the Malibu Creek Watershed Proposed Amendment, and finally at the Revolon Slough / Beardsley Wash Proposed Amendment.</p>	
1.2	Heal the Bay and the Los Angeles Waterkeeper	<p><b>The Statewide Trash Amendment</b></p> <p>The Statewide Trash Amendment, adopted in April 2015, provides statewide consistency between the different Regional Boards for their regulatory approach to reducing trash pollution in waterways<sup>1</sup>. Under the Statewide Trash Amendment, MS4 permittees are only required to address point sources within priority land use areas. This can be done with full capture systems, or an approved best management practices (BMP) program with equivalent results. Priority land use areas are defined as high density residential, industrial, commercial and mixed urban areas as well as public transportation stations.</p> <p>Trash TMDLs that were in effect prior to April 2015 take precedence over this Statewide Trash Amendment. The Revolon Slough / Beardsley Wash Trash TMDL was implemented in 2007 and the Malibu Creek Watershed Trash TMDL was implemented in 2008. Any revisions made to align the Revolon Slough / Beardsley Wash Trash TMDL or the</p>	<p>Heal the Bay previously made a similar comment to the Los Angeles Water Board and the Los Angeles Water Board responded to it. The State Water Board reviewed and agrees with the Los Angeles Water Board's response to Comment No. 3.3, which states:</p> <p>The statewide Trash Amendments required the Los Angeles Water Board to convene a public meeting to reconsider the scope of its trash TMDLs, with the exception of those for the Los Angeles River and Ballona Creek watersheds, to particularly consider an approach that would focus MS4 permittees' trash-control efforts on high-trash generation areas within their jurisdictions. The Los Angeles</p>

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		<p>Malibu Creek Watershed Trash TMDL with the Statewide Trash Amendment must be sufficient to maintain the original 2007/2008 “zero trash” water quality objectives.</p>	<p>Water Board held this meeting on November 28, 2016.</p> <p>The Los Angeles Water Board agrees that the revised Malibu Creek Watershed Trash TMDL must still meet zero trash water quality objectives.</p> <p>Los Angeles Water Board staff analyzed land use maps, MFAC programs, responsible entities’ annual reports, and three criteria to determine whether aligning the point source compliance approach of the Malibu Creek Watershed Trash TMDL with the statewide Trash Amendments would still be sufficient to achieve on an ongoing basis the zero trash water quality objectives.</p> <p>The Los Angeles Water Board believes that addressing the high trash generation (priority) land use areas with full capture systems and implementing effective MFAC/BMP programs will meet the zero trash water quality objectives.</p>

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1.3	Heal the Bay and the Los Angeles Waterkeeper	<p><b>Malibu Creek Watershed Trash TMDL And Proposed Amendments</b></p> <p>The Malibu Creek Watershed is the most undeveloped watershed in the Los Angeles area. The open space, wildlife and park land provide opportunity for improving biodiversity, and for tourism and recreation. Unfortunately, five waterways in the Malibu Creek Watershed (Malibu Creek, Medea Creek, Lindero Creek, Lake Lindero and Las Virgenes Creek) have been identified as impaired due to trash and placed on the Clean Water Act (CWA) 303(d) list of impaired water bodies. This trash pollution is an identified stressor effecting the ecosystem of the Malibu Creek Watershed. Efforts must be made to remove this trash before it enters the waterways and harms local wildlife. The 2008 Trash TMDL established a “zero trash” objective in order to protect beneficial uses in the Malibu Creek Watershed.</p>	<p>Heal the Bay previously made a similar comment to the Los Angeles Water Board and the Los Angeles Water Board responded to it. The State Water Board reviewed and agrees with the Los Angeles Water Board’s response to Comment No. 3.4, which states:</p> <p style="padding-left: 40px;">The Los Angeles Water Board agrees that the Malibu Creek Watershed is a unique watershed in the Los Angeles area with its undeveloped areas, high quality habitat, and open space. The 2008 Malibu Creek Watershed Trash TMDL established a numeric target of zero trash based on water quality objectives, and corresponding zero trash WLAs and LAs. The proposed revised Malibu Creek Watershed Trash TMDL maintains the zero trash numeric target, WLAs, and LAs.</p>
1.4	Heal the Bay and the Los Angeles Waterkeeper	<p><b><i>Trash is being discharged from both priority and non-priority land use areas in the Malibu Creek Watershed.</i></b></p> <p>The Staff Report recognizes that there is a potential for non-priority land use areas to discharge significant amounts of trash to impaired water bodies in the Malibu Creek Watershed. The highest amounts of trash were found at sites CSM_LDC1 (downstream of non-priority land use area), MC1 and LC1 (downstream of mixed and non-priority land use area) and</p>	<p>Heal the Bay previously made a similar comment to the Los Angeles Water Board and the Los Angeles Water Board responded to it. The State Water Board reviewed and agrees with the Los Angeles Water Board’s response to Comment No. 3.6, which states:</p> <p style="padding-left: 40px;">The highest amounts of trash were</p>

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		<p>CMS_LDC1 and CMS_LVC2 (downstream of priority land use area). Trash is accumulating from priority and non-priority land use areas. Non-priority land use areas must also have full capture systems, or another approved equivalent program.</p> <p>The Staff Report also recognizes that there are priority land use areas upstream and/or in near proximity to non-priority land use areas in the Malibu Creek Watershed, such that trash from priority land use areas may enter MS4s in nearby non-priority land use areas. This may be contributing to the high trash levels observed at CSM_LDC1, MC1 and LC1. Full capture systems installed in the non-priority areas would prevent any transported trash from entering the waterways.</p>	<p>found at sites CMS_LDC1 (downstream of primarily non-priority land use areas), CMS_LDC2 and CMS_LVC2 (downstream of primarily priority land use areas). Low amounts of trash were found at sites MC1 and LC1.</p> <p>Although CMS_LDC1 is primarily downstream of non-priority land uses, there are some priority land use areas near this site. Not all of the catch basins in these priority land use areas have been addressed with full capture systems yet. It is not possible to determine how much trash may be coming from priority versus non-priority land uses. However, the non-priority land uses are likely contributing trash to CMS_LDC1. For this reason, staff finds that the requirement for full capture systems only in priority land use areas is only possible as long as MFAC/BMP programs are in place in downstream waters.</p> <p>In addition, the proposed revised</p>

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			<p>Malibu Creek Watershed Trash TMDL requires priority land use areas to be addressed with full capture systems, but also requires catch basins in non-priority areas that receive drainage from priority land use areas to be addressed with full capture systems.</p> <p>The revised TMRP and MFAC/BMP program for sites that have demonstrated high levels of trash will require the responsible parties to increase the frequencies and in some cases the locations of collection and assessment.</p>
1.5	Heal the Bay and the Los Angeles Waterkeeper	<p><b><i>Trash TMDL compliance is not yet being met in the Malibu Creek Watershed. Stronger regulatory action is required, and full capture systems or equivalent programs should be installed in priority and non-priority land use areas until 100% trash reduction is achieved, or until a sufficient MFAC program can be demonstrated.</i></b></p> <p>The 2008 Malibu Creek Trash TMDL required responsible entities to comply with WLAs by addressing all point sources of trash with full capture systems, or an approved program with equivalent results. Full capture systems have been installed by three responsible jurisdictions within the Malibu Creek Watershed: Los Angeles County, Ventura County, and</p>	<p>Heal the Bay previously made a similar comment to the Los Angeles Water Board and the Los Angeles Water Board responded to it. The State Water Board reviewed and agrees with the Los Angeles Water Board's response to Comment No. 3.5, which states:</p> <p>The 2012 Los Angeles County Municipal Separate Storm Sewer (MS4) permit includes requirements, including water quality based effluent limitations consistent with the</p>

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		<p>the City of Agoura Hills. In these areas, significant trash reductions has been observed, according to the Staff Report. Additional full capture system implementation plans have been proposed by the Cities of Hidden Hills, Malibu and Thousand Oaks. The Cities of Calabasas and Westlake Village have not initiated implementation of full-capture systems or an equivalent program.</p> <p>Responsible jurisdictions within the Malibu Creek Watershed have been deemed in compliance with the 2008 Trash TMDL for non-point sources because the MFAC program achieves the “zero trash” objective following each collection event. However, as stated in the Staff Report, a harmful amount of trash accumulates at some sites between these collection events. The MFAC program is therefore not sufficient to protect the Malibu Creek Watershed against trash pollution. Therefore, we believe that the responsible jurisdictions should not be deemed in compliance. Enforcement action must be taken for responsible jurisdictions that do not comply with the TMDL requirements for non-point sources.</p> <p>The Malibu Creek Watershed Proposed Amendment allows permittees to only install full-capture systems in high priority areas, as long as the MFAC program is sufficient. As stated above, this is not the case. In the Regional Board Response to Comments, staff stated that an additional requirement in the Malibu Creek Watershed Proposed Amendment to improve the MFAC program addresses this issue. However, since the</p>	<p>assumptions and requirements of the WLAs in the Malibu Creek Watershed Trash TMDL. These are enforceable requirements. The final compliance deadline for this TMDL was July 7, 2017. The Los Angeles Water Board staff has been reviewing monitoring reports for this TMDL and may pursue enforcement actions, if appropriate.</p> <p>Zero trash for nonpoint sources is defined as zero trash immediately following each assessment and collection event consistent with a responsible entity’s MFAC Program. Therefore, if responsible entities are demonstrating zero trash following each collection event, then they are complying with the LA. However, if a deleterious amount of trash is accumulating between collection events, responsible entities must revise their MFAC/BMP programs to increase collection frequencies. The proposed revisions to the TMDL require responsible entities to submit revised TMRPs and MFAC/BMP</p>



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		<p>permittees have not yet demonstrated a sufficient MFAC Program, we oppose the proposed amendment to require addressing point sources of trash only in priority land use areas. Full capture systems or equivalent programs should be installed first in priority land use areas, but must also be installed in non-priority land use areas until 100% trash reduction is achieved, or until a sufficient MFAC program can be demonstrated.</p>	<p>programs to increase the frequencies and in some cases the locations of trash collection and assessment. The proposed revisions also increase the specified minimum frequencies for certain sites to clarify the expected revisions in the TMRP.</p> <p>The revised TMDL states that LAs will be implemented through a conditional waiver of waste discharge requirements (WDRs), WDRs, or another appropriate order of the Los Angeles Water Board in accordance with the statewide Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (Policy). The Policy requires any nonpoint source program to state the consequences of failure to achieve its stated purpose, including revising the program or taking enforcement action. The Policy describes the Water Board's authorities to implement a nonpoint source program, including the authorities contained in Water Code section 13269 to issue a waiver of</p>

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			<p>WDRs. Water Code section 13269(e) mandates that the regional water boards require compliance with the conditions of a waiver of WDRs.</p> <p>Since the conditional waiver in the TMDL previously expired, Los Angeles Water Board staff will be proposing in the future that the Board adopt a nonpoint source conditional waiver separate from the TMDL that would apply to all non-point sources subject to a trash TMDL. A conditional waiver is an enforceable regulatory mechanism to implement the LAs and could require increased collection frequencies if trash is accumulating in deleterious amounts between collection events.</p> <p>As the Los Angeles Water Board stated in response to Health the Bay's previous comment, if a deleterious amount of trash is accumulating between collection events, responsible entities must revise their MFAC/BMP programs to increase collection frequencies. The revised TMDL as adopted by the Los Angeles Water Board requires responsible entities to increase the</p>

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			frequencies and in some cases the locations of trash collection and assessment in their TMRPs to ensure that an effective MFAC/BMP Program is in place to remove any trash potentially discharged from non-priority MS4 areas.
1.6	Heal the Bay and the Los Angeles Waterkeeper	<p><b><i>Regional Board Proposed Amendments</i></b></p> <p>Regional Board staff conclude that full-capture systems installed only in priority land use areas will be sufficient as long as an effective MFAC program is established. The revised TMDL does require a revised TMRP and MFAC Program where needed.</p>	Comment noted
1.7	Heal the Bay and the Los Angeles Waterkeeper	<p><b><i>Heal the Bay Recommendations</i></b></p> <p>An effective MFAC Program has not yet been established for the Malibu Creek Watershed Trash TMDL as harmful amounts of trash have historically accumulated between collection periods. The potential of trash pollution between these MFAC events still poses a risk to the Malibu Creek Watershed ecosystem. Therefore, the amount of trash entering the waterways should be eliminated to the extent practicable by addressing all point sources (on priority and non-priority land) until 100% trash reduction is achieved. Full capture systems should first be installed in priority land use areas to address high volume trash discharge, but they must also be installed in non-priority land use areas to address the additional trash discharge. In addition, an effective MFAC Program must be</p>	<p>Heal the Bay previously made a similar comment to the Los Angeles Water Board and the Los Angeles Water Board responded to it. The State Water Board reviewed and agrees with the Los Angeles Water Board's response to Comment No. 3.8, which states:</p> <p>The Los Angeles Water Board believes that with responsible entities addressing priority land use areas with full capture systems, and with effective MFAC/BMP programs being implemented downstream to address trash from non-priority areas, 100% trash reduction will be</p>

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		established to address any remaining trash from non-point sources.	<p>achieved.</p> <p>The Los Angeles Water Board agrees that effective MFAC programs must be established, and has proposed Task 5 in Tables 7-24.2b and 7-31.2b, which is a revision of existing TMRP and MFAC/BMP programs. Task 5 of Tables 7-24.2b and 7-31.2b requires responsible entities to revise their TMRP and MFAC/BMP programs. In areas where trash has been found to accumulate in deleterious amounts between collections, revised TMRPs and MFAC/BMP programs will be required to increase frequencies and in some cases locations. In addition, the minimum frequency specified in the Basin Plan amendment for Lindero Creek Reach 1 (CMS_LDC2) is being increased to once per week to clarify the expected revisions in the TMRP. For other sites where data from annual reports show deleterious amounts of trash accumulating (CMS_LVC2, CMS_LDC1, CMS_LVC3) the minimum frequencies specified in the</p>

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			<p>existing BPA are not reflected in the existing TMRP. Therefore, responsible entities must revise their TMRPs to reflect the existing minimum frequencies in the BPA.</p>
1.8	Heal the Bay and the Los Angeles Waterkeeper	<p>We oppose the proposed amendment that require MS4 Permittees to comply with WLAs by addressing point sources of trash only in priority land use areas. The harmful amounts of trash accumulating between collection events, even downstream of non-priority land use areas, poses a risk to the ecosystems in Revolon Slough, Beardsley Wash and the Malibu Creek Watershed. Trash pollution must be removed to the extent practicable before it enters the waterways by addressing all point sources of discharge (in priority and non-priority land use areas). Full capture systems or equivalent programs should be installed first in priority land use areas, but must also be installed in non-priority land use areas. An effective and adaptive MFAC Program must also be established to address remaining trash from non-point sources.</p>	<p>Heal the Bay previously made a similar comment to the Los Angeles Water Board and the Los Angeles Water Board responded to it. The State Water Board reviewed and agrees with the Los Angeles Water Board's response to Comment No. 3.14, which states:</p> <p>The Los Angeles Water Board agrees that trash poses a harmful risk to the ecosystems of Revolon Slough/Beardsley Wash and the Malibu Creek Watershed. Task 5 of Table 7-24.2b and 7-31.2b require responsible entities to revise their TMRP and MFAC/BMP programs. In areas where trash has been found to accumulate in deleterious amounts between collections, revised TMRPs and MFAC/BMP programs will be required to increase frequencies and in some cases locations. The revised TMRP and MFAC/BMP programs</p>

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			<p>will address any potential discharges of trash from non-priority land uses and will ensure that trash does not end up in these waterways. In addition, the minimum frequency specified in the Basin Plan amendment for Revolon Slough at Wood Road, in Beardsley Wash and Revolon Slough in areas under the jurisdiction of the County of Ventura and agricultural lands, and the Camarillo Hills drain are being increased to twice per month to clarify the expected revisions in the TMRP.</p> <p>The 2012 Los Angeles County Municipal Separate Storm Sewer (MS4) permit includes requirements, including water quality based effluent limitations consistent with the assumptions and requirements of the WLAs for trash. These requirements are enforceable.</p> <p>The proposed action to remove the nonpoint source conditional waiver and to adopt it as a separate action</p>

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			<p>will ensure that there is an enforceable regulatory mechanism to implement the LAs and require increased collection frequencies and locations if trash is accumulating in deleterious amounts between collection events.</p> <p>See also response to comments 1.2-1.7.</p>
2.1	County of Ventura, VCWPD, City of Thousand Oaks	<p>The County of Ventura, Ventura County Watershed Protection District, and City of Thousand Oaks, as Responsible Parties to the upper Malibu Creek Watershed Trash TMDL (Trash TMDL), are submitting this letter to express our support for the proposed approval of an Amendment to the Water Quality Control Plan for the Los Angeles Region to Incorporate Revisions to The Malibu Creek Trash TMDL. As intended by the State Water Resources Control Board, we appreciate the alignment between the Trash TMDL and the Water Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE Plan) and the Water Quality Control Plan for Ocean Waters of California (Ocean Plan), together the "statewide Trash Amendments".</p>	Comment noted